

Docket No.: 50179-073



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :  
Gerald Wayne BOTH, et al. :  
Serial No.: 09/464,767 : Group Art Unit: 1646  
Filed: December 16, 1999 : Examiner: S. Priebe  
For: DNA ENCODING OVINE ADENOVIRUS (OAV287) AND ITS USE AS A VIRAL VECTOR

REQUEST FOR APPROVAL OF DRAWING CORRECTIONS

Honorable Assistant Commissioner for Patents  
Washington, D. C. 20231

Sir:

Attached is a copy of revised Figure 13 for the Office's review and approval. The revision is shown in red ink. Applicants respectfully submit that the revision does not add new subject matter to the pending application. If you should have any questions, or identify any problems, please contact Applicants' representative at the telephone number listed below.

Respectfully submitted,

MCDERMOTT, WILL & EMERY

Joseph Hyosuk Kim, Ph.D.  
Registration No. 41,425

600 13<sup>th</sup> Street, N.W.  
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(202) 756-8000 JHK/dls  
**Date: May 16, 2001**  
Facsimile: (202) 756-8087

Attachment: Revised Figure 13



CPA  
1645  
H14  
1-8-02  
P.2.

### CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing  
(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

Commissioner for Patents  
Box CPA  
Washington, DC 20231

Attorney Docket No.: 50179-073  
First Named Inventor: Gerald Wayne Both  
Examiner: Scott D. Priebe, Ph.D.  
Group Art Unit: 1646

This is a request for a Continuation application under 37 CFR 1.53(d).  
(continued prosecution application (CPA)) of prior application number 09/464,767, filed on December 16, 1999,  
entitled DNA ENCODING OVINE ADENOVIRUS (OAV287) AND ITS USE AS A VIRAL VECTOR.

#### NOTES

*FILING QUALIFICATIONS:* The prior application identified above must be a nonprovisional application that is either: (1) complete as defined by 37 CFR 1.51(b) and filed on or after June 8, 1995, or (2) the national stage of an international application in compliance with 35 USC 371 and filed on or after June 8, 1995.

*C-I-P NOT PERMITTED:* A continuation-in-part application cannot be filed as a CPA under 37 CFR 1.53(d), but must be filed under 37 CFR 1.53(b).

*EXPRESS ABANDONMENT OF PRIOR APPLICATION:* The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

*ACCESS TO PRIOR APPLICATION:* The filing of this CPA will be construed to include a waiver of confidentiality by the applicant under 35 USC 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR 1.14 to access to, copies of, or information concerning, the prior application may be given similar access to, copies of, or similar information concerning, the other application or applications in the file jacket.

*35 USC 120 STATEMENT:* In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 USC 120 and to every application assigned the application number identified in such request, 37 CFR 1.78(a).

1.  Enter the unentered amendment previously filed on May 16, 2001 under 37 CFR 1.116 in the prior nonprovisional application.
2.  Due to time constraints, a second preliminary amendment is forthcoming to address the Examiner's objections in the Office Action dated July 3, 2001 of the prior application No. 09/464,767.
3. This application is filed by fewer than all the inventors named in the prior application, 37 CFR 1.53(d)(4).
  - a.  DELETE the following inventor(s) named in the prior nonprovisional application:
  - b.  The inventor(s) to be deleted are set forth on a separate sheet attached hereto.
4.  A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. Information Disclosure Statement (IDS) is enclosed:
  - a.  PTO-1449
  - b.  Copies of IDS Citations

01/04/2002 EABUBAKI 00000120 500417 09464767

01 FC:131 740.00 CH  
02 FC:102 336.00 CH  
03 FC:103 72.00 CH

	NO. OF CLAIMS		EXTRA CLAIMS	RATE	AMOUNT
Total Claims	24	-20	4	\$18.00 =	\$72.00
Independent Claims	7	-3	4	\$84.00 =	\$336.00
			Basic Application Fee		\$740.00
			If multiple dependent claims are presented, add \$0.00		\$0.00
			Total Application Fee		\$1148.00
			Subtract ½ if small entity		\$0.00
			<b>TOTAL APPLICATION FEE DUE</b>		<b>\$1148.00</b>
			<b>AMOUNT TO BE CHARGED TO DEPOSIT ACCOUNT NO. 500417</b>		<b>\$1148.00</b>

6. Small entity status:
- a.  A small entity statement is enclosed.
  - b.  A small entity statement was filed in the prior nonprovisional application and such status is still proper and desired.
  - c.  Is no longer claimed
7. The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No. 500417;
- a.  Fees required under 37 CFR 1.16.
  - b.  Fees required under 37 CFR 1.17.
8. To the extent necessary, a petition for an extension of time under 37 CFR 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.
9.  Suspension of action of the above-identified application is requested under 37 C.F.R. § 1.1.03(c) for a period of \_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 C.F.R. § 1.17(i) required)
10. Additional Attachments:
- a.  Petition For Extension of Time of 3 Months (\$920.00)
  - b.  Other:

NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below.

Daniel Bucca (Reg. No. 42,368)  
McDERMOTT, WILL & EMERY  
600 13th Street, N.W.  
Washington , D.C. 20005-3096

Respectfully submitted,

MCDERMOTT, WILL & EMERY



Daniel Bucca  
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600 13<sup>th</sup> Street, N.W.  
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(202) 756-8000  
DB/KNW:dmd  
**Date: January 3, 2002**  
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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Gerald Wayne BOTH, et al.

Serial No.: 09/464,767

Filed: December 16, 1999

For: DNA ENCODING OVINE ADENOVIRUS(OAV287) AND ITS USE AS A VIRAL VECTOR



Group Art Unit: 1646

Examiner: S. Priebe

THE COMMISSIONER FOR PATENTS AND TRADEMARKS  
Washington, DC 20231

Dear Sir:

Transmitted herewith is an Amendment in the above identified application.

- No additional fee is required.  
 Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.  
 A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.  
 Also attached: Preliminary Amendment, Sequence Listing and CRF, Request Drawing Change

The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	0	0	0	\$18.00 =	\$0.00
Independent Claims	0	0	0	\$80.00 =	\$0.00
Multiple claims newly presented					\$0.00
Fee for extension of time					\$390.00
					\$0.00
Total of Above Calculations					\$390.00

- Please charge my Deposit Account No. 500417 in the amount of \$390.00. An additional copy of this transmittal sheet is submitted herewith.
- The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment, to Deposit Account No. 500417, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

MCDERMOTT, WILL &amp; EMERY

Joseph Hyosuk Kim, Ph.D.  
Registration No. 41,425

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Washington, DC 20005-3096  
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Date: May 16, 2001  
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